



UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
844 NORTH RUSH STREET
CHICAGO, ILLINOIS 60611-2092

BOARD MEMBERS

MICHAEL S. SCHWARTZ, CHAIRMAN

V.M. SPEAKMAN, JR., LABOR MEMBER

JEROME F. KEVER, MANAGEMENT MEMBER

JANUARY 24, 2006

The Honorable Daniel Metcalfe, Director
Office of Information and Privacy
Department of Justice
Suite 570, Flag Building
Tenth Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Metcalfe:

Pursuant to 5 U.S.C. § 552(e), the Railroad Retirement Board hereby submits its report under the Freedom of Information Act for fiscal year 2005.

I. Basic Information Regarding Report.

- A. Name, title, address, and telephone number of person(s) to be contacted with questions about the report.

Steven A. Bartholow
General Counsel/Chief FOIA Officer
U.S. Railroad Retirement Board
844 North Rush Street
Chicago, IL. 60611-2092
312-751-4935

- B. Electronic address for report on the World Wide Web.

A copy of this report will be posted on the RRB's Web Site at
www.rrb.gov.

- C. How to obtain a copy of the report in paper form.

A copy of this report may be obtained by writing to Steven A. Bartholow at the above address.

II. How to Make a FOIA Request.

The United States Railroad Retirement Board (RRB) is a federal agency charged with the administration of the Railroad Retirement and Railroad Unemployment Insurance Acts. In general, the Railroad Retirement Act replaces the Social Security Act for employment in the railroad industry. Similarly, the Railroad Unemployment Insurance Act replaces state unemployment acts for work in the railroad industry. The RRB is headquartered at 844 North Rush Street in Chicago, Illinois 60611-2092. All written requests for records should be directed to this address.

Information available from the RRB under the Freedom of Information Act (FOIA) includes the agency's procedure manuals, final decisions of the three-member Board which heads the agency, rulings of the Board, and legal opinions. Board coverage decisions and agency legal opinions are available on our web site.

Because the RRB administers a comprehensive program of railroad retirement, unemployment, and sickness benefits for railroad workers, it also maintains information about individuals that may not be disclosed in response to a FOIA request. The Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Privacy Act restrict the disclosure of information about individuals. If someone requests information about an individual, the requester must, as a general rule, provide the RRB a written authorization signed by the individual who is the subject of that record.

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

The RRB has designated the Office of General Counsel as the FOIA Requester Service Center for the agency. All requests, other than those to the Inspector General, under the FOIA should be made by writing to Steven A. Bartholow, General Counsel/ Chief FOIA Officer. No form is needed. Mark both the envelope and its contents: "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." Address your request to:

Steven A. Bartholow
General Counsel/Chief FOIA Officer
Railroad Retirement Board
844 North Rush Street
Chicago, Illinois 60611-2092

Because of the independent nature of the Office of Inspector General, requests for information from the Inspector General should be made by writing to Martin J. Dickman, Inspector General. No form is needed. Mark both the envelope and its contents: "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." Address your request to:

Martin J. Dickman
Inspector General
Railroad Retirement Board
844 North Rush Street
Chicago, Illinois 60611-2092

If someone wants to request a record that we do not publish or which we do not make available in one of our offices, the requester must give us a detailed description of the record(s) he or she wants. The requester should give us as many details as possible, such as names, dates, subject matter and location. A vague description could delay our answer or prevent us from finding the records requested. We will ask a requester to revise a request if we need information to find the record(s). A requester should include a daytime telephone number where he or she can be reached in case we have questions about the request.

B. Brief description of the agency's response-time ranges.
In general, the RRB responds to requests under the FOIA within 20 work days.

C. Brief description of why some requests are not granted.

The most common reason that a request cannot be granted is the restrictions on disclosure contained in sections 12(d) and 12(n) of the Railroad Unemployment Insurance Act (45 U.S.C. § 362(d) and (n)). Those sections restrict the disclosure of personally identifiable material (section 12(d)) and medical records (section 12(n)). Section 12(d) has been held to be an exemption 3 statute in Association of Retired Railroad Workers v. United States Railroad Retirement Bd., 830 F. 2d 331,334 (D.C. Cir. 1987).

III. Definitions of Terms and Acronyms Used in the Report (to be included in each report).

A. Agency-specific acronyms or other terms.

1. RRB-- Railroad Retirement Board

2. FTE—Full-time employee
3. OIG – Office of Inspector General

B. Basic terms, expressed in common terminology.

1. FOIA/PA request - - Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
2. Initial Request - - a request to a federal agency for access to records under the Freedom of Information Act.
3. Appeal - - a request to a federal agency asking that it review, at a higher administrative level, a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.
4. Processed Request or Appeal - - a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
5. Multi-track processing - - a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester who has an urgent need for records may request expedited processing (see below).
6. Expedited processing - - the agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple request - - a FOIA request that is placed in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.
8. Complex request - - a FOIA request that is placed in a slower track based on the volume and/or complexity of records requested.
9. Grant - - an agency decision to disclose all records in full in response to an FOIA request.
10. Partial grant - - an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.
11. Denial - - an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits - - the time period in the Freedom of Information Act for an agency to respond to a FOIA request.
13. "Perfected" request - - a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.
14. Exemption 3 statute - - a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).
15. Median number - - the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
16. Average number - - the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

IV. Exemption 3 Statutes.

- A. List of Exemption 3 statutes relied on by the agency during the current fiscal year.

The RRB withheld personally identifiable information regarding individuals pursuant to the restrictions on disclosure contained in sections 12(d) and 12(n) of the Railroad Unemployment Insurance Act (45 U.S.C. § 362(d) and (n)). Those sections restrict the disclosure of personally identifiable material (section 12(d)) and medical records (section 12(n)). Section 12(d) has been held to be an exemption 3 statute in Association of Retired Railroad Workers v. United States Railroad Retirement Bd., 830 F. 2d 331,334 (D.C. Cir. 1987).

1. Brief description of type(s) of information withheld under each statute.

The types of information withheld are the names, addresses, and medical records of claimants under the Acts administered by the RRB.

2. Statement of whether a court has upheld the use of each statute. If so, then cite example.

Section 12(d) has been held to be an exemption 3 statute in Association of Retired Railroad Workers v. United States Railroad Retirement Bd., 830 F. 2d 331,334 (D.C. Cir. 1987).

V. Initial FOIA/PA Access Requests. Due to the independent nature of the office of Inspector General (OIG), requests for information that are directed to the OIG are handled by that office and are separately reported below.

- A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year

RRB - 0 OIG – 1

2. Number of requests received during current fiscal year

RRB – 77, OIG - 12

3. Number of requests processed during current fiscal year

RRB – 77, OIG – 7

4. Number of requests pending as of end of current fiscal year

RRB - 0, OIG – 6

B. Disposition of initial requests.

1. Number of total grants

RRB -65, OIG – 0

2. Number of partial grants

RRB – 1, OIG – 0

3. Number of denials

RRB - 5, OIG – 7

a. Number of times each FOIA exemption used (counting each exemption once per request)

| | RRB | OIG |
|--------------------|-----|-----|
| (1)Exemption 1 | 0 | 0 |
| (2)Exemption 2 | 0 | 0 |
| (3)Exemption 3 | 3 | 0 |
| (4)Exemption 4 | 0 | 0 |
| (5)Exemption 5 | 0 | 0 |
| (6)Exemption 6 | 2 | 0 |
| (7)Exemption 7(A) | 0 | 4 |
| (8)Exemption 7(B) | 0 | 0 |
| (9)Exemption 7(C) | 0 | 2 |
| (10)Exemption 7(D) | 0 | 0 |
| (11)Exemption 7(E) | 0 | 0 |
| (12)Exemption 7(F) | 0 | 0 |
| (13)Exemption 8 | 0 | 0 |
| (14)Exemption 9 | 0 | 0 |

| | | | |
|----|---|-----|-----|
| 4. | Other reasons for nondisclosure (total) - | 7 | |
| | | RRB | OIG |
| | | 6 | 1 |
| a. | no records | 5 | 0 |
| b. | referrals | 0 | 0 |
| c. | request withdrawn | 0 | 1 |
| d. | fee-related reason | 0 | 0 |
| e. | records not reasonably described | 0 | 0 |
| f. | not a proper FOIA request for some other reason | 0 | 0 |
| g. | not an agency record | 1 | 0 |
| h. | duplicate request | 0 | 0 |
| i. | other (specify) | 0 | 0 |

VI. Appeals of Initial Denials of FOIA/PA Requests.

| | | |
|---|-----|-----|
| A. Number of appeals. | RRB | OIG |
| 1. Number of appeals received during fiscal year | 1 | 0 |
| 2. Number of appeals processed during fiscal year | 1 | 0 |

B. Disposition of appeals.

| | | |
|----|----------------------------|---|
| 1. | Number completely upheld | 1 |
| 2. | Number partially reversed | 0 |
| 3. | Number completely reversed | 0 |

a. number of times each FOIA exemption used (counting each exemption once per appeal)

| | | |
|-----|----------------|---|
| (1) | Exemption 1 | 0 |
| (2) | Exemption 2 | 0 |
| (3) | Exemption 3 | 1 |
| (4) | Exemption 4 | 0 |
| (5) | Exemption 5 | 0 |
| (6) | Exemption 6 | 0 |
| (7) | Exemption 7(A) | 0 |

| | | |
|------|----------------|---|
| (8) | Exemption 7(B) | 0 |
| (9) | Exemption 7(C) | 0 |
| (10) | Exemption 7(D) | 0 |
| (11) | Exemption 7(E) | 0 |
| (12) | Exemption 7(F) | 0 |
| (13) | Exemption 8 | 0 |
| (14) | Exemption 9 | 0 |

| | | | |
|----|--|-----|-----|
| 4. | Other reasons for nondisclosure (total). | RRB | OIG |
| | a. no records | 0 | 0 |
| | b. referrals | 0 | 0 |
| | c. request withdrawn | 0 | 0 |
| | d. fee-related reason | 0 | 0 |
| | e. records not reasonably described | 0 | 0 |
| | f. not a proper FOIA request for some other reason | 0 | 0 |
| | g. not an agency record | 0 | 0 |
| | h. duplicate request | 0 | 0 |
| | i. other (specify) | 0 | 0 |

VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year.

| | | | |
|----|---|-----|-----|
| 1. | Simple requests (if multiple tracks used). | RRB | OIG |
| | a. number of requests processed | 77 | 7 |
| | b. median number of days to process | 10 | 2 |
| 2. | Complex requests (specify for any and all tracks used). | | |
| | | RRB | OIG |
| | a. number of requests processed | 0 | 0 |
| | b. median number of days to process | 0 | 0 |

3. Requests accorded expedited processing.

| | RRB | OIG |
|-------------------------------------|-----|-----|
| a. number of requests processed | 0 | 0 |
| b. median number of days to process | 0 | 0 |

B. Status of pending requests

1. Number of requests pending as of end of current fiscal year

| RRB | OIG |
|-----|-----|
| 0 | 6 |

2. Median number of days that such requests were pending as of that date.

| RRB | OIG |
|-----|-----|
| 0 | 103 |

VIII. Comparisons with Previous Year(s)

A. Comparison of numbers of requests received.

The number of requests increased somewhat compared to prior years.

B. Comparison of numbers of requests processed.

The agency continues to process requests within the statutory time limits.

C. Comparison of median numbers of days requests were pending as of end of fiscal year.

The median number of days for the RRB to respond to a request remained the same. The OIG's processing time significantly decreased.

D. Other statistics significant to agency

The agency received no requests for expedited processing and none were granted.

- E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records).

We have posted the names, addresses, and telephone numbers of the agency's IMPAC credit card holders on our web site.

IX. Costs/FOIA Staffing

A. Staffing levels.

1. Number of full-time FOIA personnel
RRB – 0 OIG - 0
2. Number of personnel with part-time or occasional FOIA duties (in total work-years)
RRB - 0.125 FTE OIG – 0.03 FTE
3. Total number of personnel (in work-years)
RRB - 0.125 FTE OIG – 0.03 FTE

B. Total costs (including staff and all resources).

2. FOIA processing (including appeals)
RRB - \$18,750 OIG - \$750
3. Litigation-related activities (estimated)
RRB -0 OIG - 0
4. Total costs
RRB - \$18,750 OIG - \$750

C. Statement of additional resources needed for FOIA compliance.

No additional resources are needed at this time.

X. Fees

- A. Total amount of fees collected by agency for processing requests
RRB -\$937.78 OIG - \$0.

B. Percentage of total costs
RRB – 5% OIG – 0%

XI. FOIA Regulations (Including Fee Schedule)

Enclosed is the section of the Board's regulations setting forth the fee schedule. The Board's FOIA regulations are linked to the Board's web page and may be found at www.rrb.gov.

Sincerely,

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever

Enclosure

Fee Schedule.

20 CFR 200.4(g).

The Railroad Retirement Board (RRB) may charge the person or persons making a request for records under paragraph (f) of this section a fee in an amount not to exceed the costs actually incurred in complying with the request and not to exceed the cost of processing a check for payment. Depending on the category into which the request falls, a fee may be assessed for the cost of searching for documents, reviewing documents to determine whether any portion of any located documents is permitted to be withheld, and duplicating documents.

- (1) Fee schedule: To the extent that the following are chargeable, they are chargeable according to the following schedule:
 - (i) The charge for making a manual search for records shall be the salary rate, including benefits, for a GS-7, step 5 Federal employee;
 - (ii) The charge for reviewing documents to determine whether any portion of any located document is permitted to be withheld shall be the salary rate, including benefits, for a GS-13, step 5 Federal employee;
 - (iii) The charge for making photocopies of any size document shall be \$.10 per copy per page;
 - (iv) The charge for computer-generated listings or labels shall include the direct cost to the RRB of analysis and programming, where required, plus the cost of computer operations to produce the listing or labels. The maximum computer search charge shall be \$2,250.00 per hour (\$37.50 per minute). Search time shall not include the time expended in analysis or programming where these operations are required.
 - (v) There shall be no charge for transmitting documents by regular post. The charge for all other methods of transmitting documents shall be the actual cost of transmittal.